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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/808,550 | 03/14/2001 | Ric Joranlien | 1207 | 3826 |

7590 01/17/2003

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| EXAMINER |
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SORKIN, DAVID L

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| ART UNIT | PAPER NUMBER |
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1723

DATE MAILED: 01/17/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
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Commissioner of Patents and Trademarks

NOTICE OF NON-RESPONSIVE REPLY

1. Although the amendment contained therein has been entered, the reply filed on 09 December 2002 is not fully responsive to the prior Office Action because of the following omission issues.
2. The application cannot be meaningfully examined without knowing the inventors and ownership of the application. This information is essentially to determining patentability under 35 USC 102 and 103, as well as determining if nonstatutory double patenting rejections are appropriate and if interference proceedings are appropriate.
3. In the communication filed 09 December 2002, it is stated that (page 11, lines 13-14): "Applicants file herewith a duly signed declaration naming Chris Albright and Rick Joranlien as inventors in the subject application."
 - a. No such declaration has been received and the corresponding transmittal sheet makes no indication that such a declaration was sent.
 - b. This statement contradicts the original unsigned declaration which indicates that Ric Joranlien and Claude McFarlane are the inventors.
 - c. This statement cannot be reconciled with the statement on page 11, lines 14-17 of the communication which states that "Applicants representative the undersigned has sent a declaration to the inventors Claude McFarlane and Rick Joranlien and will file the duly executed declaration for this application on receipt there of from the inventors".
4. 37 CFR 1.78(c) states "If an application or a patent under reexamination and at least one other application naming different inventors are owned by the same party and

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contain conflicting claims, and there is no statement of record indicating that the claimed inventions were commonly owned or subject to an obligation of assignment to the person at the time the later invention was made, the Office may require the assignee to state whether the claimed inventions were commonly owned or subject to the same person at the time the later invention was made, and, if not indicate which named inventor is the prior inventor". Such a requirement was set forth in the first paragraph of the prior Office Action. This requirement has not been satisfied. Applicant merely states that "Ric Joranlien is under contractual obligation to assign the ownership of the aforementioned subject matter to Knight Manufacturing Corp." Nothing is stated about the other inventor(s). Nothing is stated concerning the ownership of the application itself. Is the full interest in the application assigned to Knight Manufacturing Corp? The ownership of the conflicting application 09/562,167 and resulting patent (US 6,409,376) is not fully explained. The Office must know the ownership of the applications to determining the appropriateness of rejections under sections 102 and 103, non-statutory double patenting rejections and interference proceedings. If the invention of US 6,409,376 and the claimed invention were not commonly owned at the time of invention, then applicant must (according to 37 CFR 1.56 and/or 1.78(c)) point out which is the earlier invention, so that patentability under 103(a) may be properly considered.

5. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid

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abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 703-308-1121. The examiner can normally be reached on 8:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



David Sorkin

January 15, 2003



CHARLES E. COOLEY
PRIMARY EXAMINER